

IN RE: PETITION FOR ZONING VARIANCE  
NW/4 Garrison Forest Road,  
2590' NW of the c/l of  
Greenspring Valley Road  
(3 Chittenden Lane)  
3rd Election District  
3rd Councilmanic District  
Henry F. LeBrun, et ux  
Petitioners

\* BEFORE THE  
\* DEPUTY ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* Case No. 89-472-A

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit an accessory structure (swimming pool) to be located in the front yard in lieu of the required rear yard, in accordance with petitioner's Exhibit 1.

The Petitioners, by Henry LeBrun, appeared, testified and were represented by Patrick D. Hanley, Esquire. There were no Protestants.

Testimony indicated that the subject property known as 3 Chittenden Lane consists of 1.320 acres zoned R.C.2, and is improved with a single family dwelling. Petitioners propose constructing a swimming pool on the property; however, due to the location of the septic system in the rear yard, and the lack of space on either side of the dwelling, the only space available to place the pool is in the front yard. Petitioner introduced photographs depicting present landscaping of the property and testified the pool would not be visible from Chittenden Lane. Testimony further indicated the layout of the adjoining property is the reverse of Petitioner's property and as such, the proposed pool would face the rear yard of the adjoining neighbor. Mr. LeBrun further testified they are desirous of constructing a 6-foot high fence along the affected property line in lieu of the 42-inch height permitted as of right for protection since the adjoining neighbors have children. Petitioners requested a specific finding of the appropriateness of a 6-foot high fence in the

front yard around the swimming pool to insure compliance with Section 515.1 of the Baltimore County Building Code as modified in Bill No. 158-88. Testimony indicated the relief requested would not result in any detriment to the health, safety or general welfare of the community.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 8th day of June, 1989 that the Petition for Zoning Variance to permit an accessory structure (swimming pool) to be located

- 2 -

ed in the front yard in lieu of the required rear yard, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

- 1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- 2) The proposed fence around the swimming pool in the front yard shall be a maximum height of 6 feet.

ANN M. NASTAROWICZ  
Deputy Zoning Commissioner  
for Baltimore County

ANN:bjs

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3333

J. Robert Haines  
Zoning Commissioner

June 8, 1989

Patrick D. Hanley, Esquire  
206 Washington Avenue  
Towson, Maryland 21204

RE: PETITION FOR ZONING VARIANCE  
NW/4 Garrison Forest Road, 2590' NW of  
the c/l of Greenspring Valley Road  
(3 Chittenden Lane)  
3rd Election District - 3rd Councilmanic District  
Henry F. LeBrun, et ux - Petitioners  
Case No. 89-472-A

Dear Mr. Hanley:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 494-3391.

Very truly yours,

ANN M. NASTAROWICZ  
Deputy Zoning Commissioner  
for Baltimore County

ANN:bjs

cc: People's Counsel

File

#### PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property located in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 400.1 to allow an accessory structure (swimming pool) to be located in the front yard in lieu of the required rear yard.

of the Zoning Regulations of Baltimore County to the Zoning Law of Baltimore County for the following reasons: (indicate hardship or practical difficulty)

Petitioners wish to construct a swimming pool in the front yard of their residence because their private septic system is located in the rear yard.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: \_\_\_\_\_  
(Type or Print Name)  
Signature: \_\_\_\_\_  
Address: \_\_\_\_\_  
City and State: \_\_\_\_\_

Legal Owner(s):  
Henry F. LeBrun  
(Type or Print Name)  
Signature: \_\_\_\_\_  
Gillian F. LeBrun  
(Type or Print Name)  
Signature: \_\_\_\_\_

Attorney for Petitioner:  
Patrick D. Hanley  
(Type or Print Name)  
Signature: \_\_\_\_\_  
Address: \_\_\_\_\_  
City and State: \_\_\_\_\_  
Towson, Maryland 21204  
City and State: \_\_\_\_\_  
Attorney's Telephone No.: 823-1174

ORDERED By The Zoning Commissioner of Baltimore County, this 22nd day of March, 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 105, County Office Building in Towson, Baltimore County, on the 17th day of May, 1989, at 2 o'clock P.M.

J. Robert Haines  
Zoning Commissioner of Baltimore County

(over)

#### ZONING DESCRIPTION

Beginning on the northeast side of Garrison Forest Road, 60 feet wide, at a point distant 2590 feet northwesterly of the centerline of Greenspring Valley Road, being lot 2 in the subdivision of The White Property, recorded among the plat records of Baltimore County in Plat Book E.H.K., Jr. 44 Folio 29. Also known as # 3 Chittenden Lane in the 3rd Election district, Owings Mills, Maryland.

#### CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

District: 3rd Date of Posting: April 26, 1989

Posted for: Variance

Petitioner: Henry F. LeBrun, et ux

Location of property: NW/4 Garrison Forest Road, 2590 FT. NW c/l

Greenspring Valley Road, 3 Chittenden Lane

Location of Signs: In front of 3 Chittenden Lane

Remarks: \_\_\_\_\_

Posted by: S. J. Brata Date of return: April 28, 1989

Number of Signs: 1

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
494-3333

J. Robert Haines  
Zoning Commissioner

Date: 4/25/89

Mr. & Mrs. Henry F. LeBrun  
3 Chittenden Lane  
Owings Mills, Maryland 21117

Re: Petition for Zoning Variance  
CASE NUMBER: 89-472-A  
NW/4 Garrison Forest Road, 2590 ft. NW c/l Greenspring Valley Road  
3 Chittenden Lane  
3rd Election District - 3rd Councilmanic  
Petitioner(s): Henry F. LeBrun, et ux  
HEARING SCHEDULED: WEDNESDAY, MAY 17, 1989 at 2:00 p.m.

Dear Petitioner(s):

Please be advised that \$89.86 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, Room 111, Towson, Maryland 21204 fifteen (15) minutes before

BALTIMORE COUNTY, MARYLAND  
OFFICE OF FINANCE - REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT

DATE: 5/7/89 ACCOUNT: R-01-615-000

AMOUNT: \$ 89.86

RECEIVED FROM: Le Brun

FOR: R/A to 5-12-89 Hanley 89-472-A

5 BCC \*\*\*\*\*08868 816LF

VALIDATION OR SIGNATURE OF CASHIER

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
494-3333

J. Robert Haines  
Zoning Commissioner

April 10, 1989

#### NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Zoning Variance  
CASE NUMBER: 89-472-A  
NW/4 Garrison Forest Road, 2590 ft. NW c/l Greenspring Valley Road  
3 Chittenden Lane  
3rd Election District - 3rd Councilmanic  
Petitioner(s): Henry F. LeBrun, et ux  
HEARING SCHEDULED: WEDNESDAY, MAY 17, 1989 at 2:00 p.m.

Variance to allow an accessory structure (swimming pool) to be located in the front yard in lieu of the required rear yard.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES  
Zoning Commissioner of  
Baltimore County

cc: Henry F. LeBrun, et ux  
Patrick D. Hanley, Esq.  
File



# CERTIFICATE OF PUBLICATION

TOWSON, MD. April 20, 1989

THIS IS TO CERTIFY, that the annexed advertisement was published in the OWINGS MILLS TIMES, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on April 20, 1989.

OWINGS MILLS TIMES,

S. Zafe Orlean

Publisher

PO 10999  
reg 67 28916  
co 89-472-1  
price \$ 74.86

## NOTICE OF HEARING

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the proposed rezoning of the property located at 111 West Chesapeake Avenue, Towson, Maryland 21204, on the following date and time:

Monday, April 24, 1989, 7:00 p.m.  
3 Chittenden Lane  
Towson, Maryland 21204  
Petitioner: Henry F. LeBrun, et ux  
Hearing Date: Wednesday, May 17, 1989 at 7:00 p.m.

Verifications to allow an accessory structure (swimming pool) to be located in the front yard in lieu of the required rear yard.

In the event that this Petition is granted, a building permit may be issued within the 60-day period. The Zoning Commission will hold a second hearing on the proposed rezoning of the property located at 111 West Chesapeake Avenue, Towson, Maryland 21204, on the following date and time:

Monday, April 24, 1989, 7:00 p.m.  
3 Chittenden Lane  
Towson, Maryland 21204  
Petitioner: Henry F. LeBrun, et ux  
Hearing Date: Wednesday, May 17, 1989 at 7:00 p.m.

J. ROBERT HAINES  
Zoning Commissioner  
Baltimore County  
CMTU4248 Apr. 20.

89-472-A

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Your petition has been received and accepted for filing this 27th day of March, 1989.

Petitioner: Henry F. LeBrun, et ux  
Petitioner's Attorney: Patrick D. Hanley, Esquire

Received by: James E. Dyer  
Chairman, Zoning Plans Advisory Committee

## BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

May 4, 1989

COUNTY OFFICE BLDG.  
111 W. Chesapeake Ave.  
Towson, Maryland 21204

MEMBERS

Bureau of Engineering  
Department of Traffic Engineering  
State Roads Commission  
Bureau of Fire Prevention  
Health Department  
Project Planning  
Building Department  
Board of Education  
Zoning Administration  
Industrial Development

Patrick D. Hanley, Esquire  
206 Washington Avenue  
Towson, MD 21204

RE: Item No. 379, Case No. 89-472-A  
Petitioner: Henry F. LeBrun, et ux  
Petition for Zoning Variance

Dear Mr. Hanley:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

James E. Dyer/jw  
JAMES E. DYER  
Chairman  
Zoning Plans Advisory Committee

JED:jw

Enclosures

cc: Mr. & Mrs. Henry F. LeBrun  
3 Chittenden Lane  
Owings Mills, MD 21117

Baltimore County  
Department of Public Works  
Bureau of Traffic Engineering  
Courts Building, Suite 405  
Towson, Maryland 21204  
(301) 887-3554

April 21, 1989

Mr. J. Robert Haines  
Zoning Commissioner  
County Office Building  
Towson, MD 21204

Dear Mr. Haines

The Bureau of Traffic Engineering has no comments for items number 367, 368, 369, 370, 371, 372, 374, 375, 376, 377, 378, 379, 380, 381, and 382.

Very truly yours,

Michael S. Flanagan  
Michael S. Flanagan  
Traffic Engineer Assoc. II

MSF/lab

RECEIVED  
APR 28 1989

ZONING OFFICE

Baltimore County  
Fire Department  
Towson, Maryland 21204-2386  
494-4500

Paul H. Reincke  
Chief

J. Robert Haines, Zoning Commissioner  
Office of Planning & Zoning  
Baltimore County Office Building  
Towson, Maryland 21204

Re: Property Owner: Henry F. LeBrun & Gillian F. LeBrun

Location: NW side Garrison Forest Road, 2,590 ft. NW of Centerline of Greenspring Valley Road  
Item No.: 379 Zoning Agenda: March 21, 1989

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

- ( ) 1. Fire hydrants for the referenced property are required and shall be located at intervals of \_\_\_\_\_ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
- ( ) 2. A second means of vehicle access is required for the site.
- ( ) 3. The vehicle dead end condition shown at \_\_\_\_\_ EXCEEDS the maximum allowed by the Fire Department.
- ( ) 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
- ( ) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.
- ( ) 6. Site plans are approved, as drawn.
- (X) 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: [Signature] NOTED & APPROVED: [Signature]  
Planning Group Fire Prevention Bureau  
Special Inspection Division

/s/

MAR 2 1989

## BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines  
Zoning Commissioner

DATE: May 16, 1989

FROM: Pat Keller, Deputy Director  
Office of Planning and Zoning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS

Case No. 89-472-A  
Item No. 379

Re: Henry F. LeBrun, et ux

The petitioners request a variance to permit an accessory structure (swimming pool) to be located in the front yard in lieu of the required rear yard. In reference to this request, staff offers the following comment:

This office has no objection to the requested variance. The plant screening as shown should be provided. Can the location of existing shed be approved in this variance?

A:51789.txt Pg.3



LAW OFFICES  
HANLEY AND HANLEY  
206 WASHINGTON AVENUE  
P.O. BOX 5308  
TOWSON, MARYLAND 21204

(301) 887-1174  
May 18, 1989

DANIEL J. HANLEY  
PATRICK D. HANLEY  
PAUL H. HANLEY

CLAUDE A. HANLEY  
(1988-1979)

RECEIVED  
MAY 19 1989  
ZONING OFFICE

Ann M. Nastarowicz  
Deputy Zoning Commissioner  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

Re: Item No. 379, Case No. 89-472-A  
Petitioner: Henry F. LeBrun, et ux  
Petition for Zoning Variance

Dear Ms. Nastarowicz:

As you may recall, we appeared in front of you on the above matter on Wednesday, May 17, 1989. As you requested, I am enclosing a copy of undersigned sections of the Baltimore County Building Code relating to the Building Code, the pool. Pursuant to Section 515.1 of the Building Code, we would request that you authorize the construction of the fence that equals or exceeds 48" in height as required by Section 625.9 of the Building Code. We would like to avoid being required to amend the development plan on that point, when we apply for the permit.

Very truly yours,

[Signature]  
Patrick D. Hanley

cc: Mr. Henry F. LeBrun

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND  
Legislative Session 1988, Legislative Day No. 21  
Bill No. 158-88

Mr. DALE WELLS, Chairman  
By Request of County Executive

By the County Council, November 7, 1988

A BILL  
ENTITLED

AN ACT concerning

The Building Code of Baltimore County

FOR the purpose of adopting with certain amendments, deletions and additions, the BOCA Basic National Building Code, Tenth Edition, 1987; the CBO One and Two Family Dwelling Code, 1986 Edition; the BOCA Basic National Mechanical Code, Sixth Edition, 1985; and the BOCA National Energy Conservation Code, 1984, all as the "Building Code of Baltimore County, Maryland".

BE REPEALING

The Building Code of Baltimore County, Maryland

as adopted by Bill No. 17-85

BY adopting

The BOCA Basic National Building Code, Tenth Edition, 1987, with amendments,

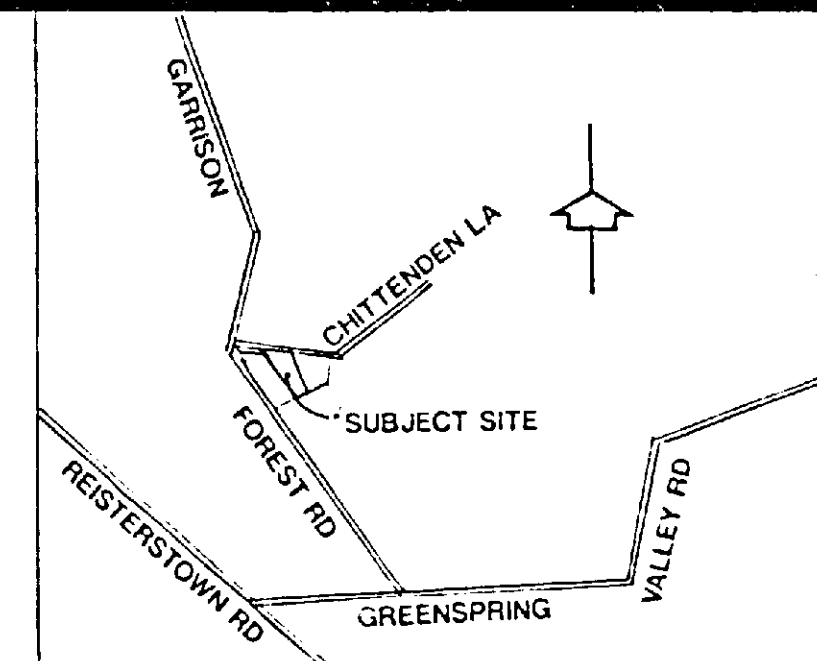
The CBO One and Two Family Dwelling Code, 1986 Edition, with amendments,

The BOCA Basic National Mechanical Code, Sixth Edition, with amendments, and

The BOCA National Energy Conservation Code, 1984

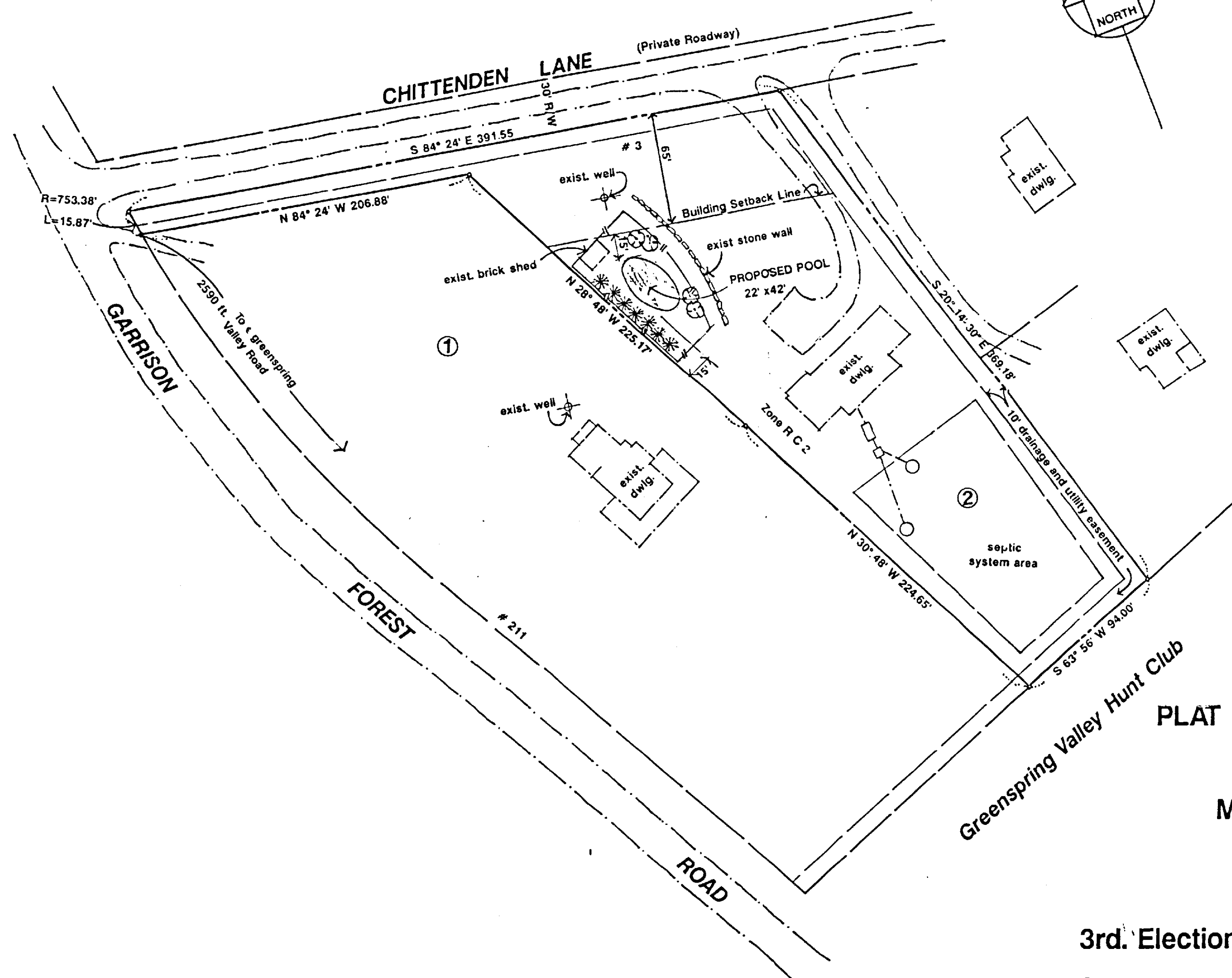
EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. (brackets) indicate matter stricken from existing law. Strike-out indicates matter stricken from bill. Underlining indicates amendments to bill.





VICINITY MAP

SCALE 1" = 2000'



CONTAINING 1.320 Acres±  
(57,499.20 sq. ft.)

Also known as Lot #2 in the Subdivision plan  
of The White Property, Plat Book E.H.K. Jr. 44  
Folio 29

**PETITIONER'S  
EXHIBIT 1**

PLAT TO ACCOMPANY ZONING VARIANCE

FOR

MR. & MRS. HENRY F. LEBRUN

# 3 Chittenden Lane

Owings Mills, Maryland 21117

3rd. Election District - Baltimore County Maryland

Scale: 1" = 50'

Date: February 21, 1989